

[No Report.]

IN THE HOUSE OF REPRESENTATIVES.

DECEMBER 18, 1860.

Read twice, recommitted to the Committee on the Territories, and ordered to be printed.

Mr. GROW, from the Committee on the Territories, reported the following bill:

A BILL

To provide a temporary government for the Territory of Arizona.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That all that part of the territory of the United States included
4 within the following limits, viz: commencing on the northern
5 boundary of the republic of Mexico where the same crosses
6 the Colorado river; thence along the centre of the main
7 channel of said river and of Virgin river to the thirty-seventh
8 parallel of north latitude; thence east along said parallel to
9 the summit of the dividing ridge which separates the waters
10 flowing into the Rio Grande from those flowing into the Gulf
11 of California; thence south along said summit to the boundary
12 line of Mexico; thence along said boundary line to the

13 beginning, be, and the same is hereby, created into a tem-
14 porary government by the name of the Territory of Arizona :
15 *Provided*, That nothing in this act contained shall be con-
16 strued to inhibit the government of the United States from
17 dividing said Territory or changing its boundaries in such
18 manner and at such time as Congress shall deem convenient
19 and proper, or from attaching any portion of said Territory
20 to any other State or Territory of the United States : *Pro-*
21 *vided, further*, That nothing in this act contained shall be
22 construed to impair the rights of person or property now
23 pertaining to the Indians in said Territory, so long as such
24 rights shall remain unextinguished by treaty between the
25 United States and such Indians, or to include any territory
26 which, by treaty with any Indian tribe, is not, without the
27 consent of said tribe, to be included within the territorial
28 limits or jurisdiction of any State or Territory ; but all such
29 territory shall be excepted out of the boundaries, and consti-
30 tute no part of the Territory of Arizona, until said tribe shall
31 signify their assent to the President^{of} of the United States to be
32 included within the said Territory, or to affect the authority
33 of the government of the United States to make any regula-
34 tions respecting such Indians, their lands, property, or other
35 rights, by treaty, law, or otherwise, which it would have been
36 competent for the government to make if this act had never
37 passed.

1 SEC. 2. *And be it further enacted,* That the executive
2 power and authority in and over said Territory of Arizona
3 shall be vested in a governor, who shall hold his office for four
4 years, and until his successor shall be appointed and qualified,
5 unless sooner removed by the President of the United States.
6 The governor shall reside within said Territory, and shall be
7 commander-in-chief of the militia thereof. He may grant
8 pardons and respites for offences against the laws of said Ter-
9 ritory, and reprieve for offences against the laws of the United
10 States until the decision of the President of the United States
11 can be made known thereon; he shall commission all officers
12 who shall be appointed to office under the laws of the said
13 Territory, and shall take care that the laws be faithfully
14 executed.

1 SEC. 3. *And be it further enacted,* That there shall be
2 a secretary of said Territory, who shall reside therein, and
3 hold his office for four years, unless sooner removed by the
4 President of the United States; he shall record and preserve all
5 the laws and proceedings of the legislative assembly hereinafter
6 constituted, and all the acts and proceedings of the governor,
7 in his executive department; he shall transmit the returns of
8 all elections held in said Territory, with the certificate of the
9 governor thereto attached, within thirty days after the same
10 are received, and shall transmit one copy of the laws and jour-
11 nals of the legislative assembly within thirty days after the

12 end of each session, and one copy of the executive proceedings
13 and official correspondence semi-annually, on the first days of
14 January and July in each year, to the President of the United
15 States, and two copies of the laws to the President of the
16 Senate and to the Speaker of the House of Representatives for
17 the use of Congress ; and in case of the death, removal, resig-
18 nation, or absence of the governor from the Territory, the
19 secretary shall be, and he is hereby, authorized and required
20 to execute and perform all the powers and duties of the gover-
21 nor during such vacancy or absence, or until another governor
22 shall be duly appointed and qualified to fill such vacancy.

1 SEC. 4. *And be it further enacted,* That the legislative
2 power and authority of said Territory shall be vested in the
3 governor and a legislative assembly. The legislative assembly
4 shall consist of a council and house of representatives. The
5 council shall consist of seven members, having the qualifications
6 of voters as hereinafter prescribed, whose term of service shall
7 continue two years. The house of representatives shall, at its
8 first session, consist of thirteen members, possessing the same
9 qualifications as prescribed for members of the council, and
10 whose term of service shall continue one year. The number
11 of representatives may be increased by the legislative assembly,
12 from time to time, to twenty-six, in proportion to the increase
13 of qualified voters ; and the council, in like manner, to thirteen.
14 An apportionment shall be made, as nearly equal as practicable,

15 among the several counties or districts for the election of the
16 council and representatives, giving to each section of the Ter-
17 ritory representation in the ratio of its qualified voters as nearly
18 as may be. And the members of the council and of the house
19 of representatives shall reside in, and be inhabitants of, the dis-
20 trict or county or counties for which they may be elected, re-
21 spectively. Previous to the first election the governor shall
22 cause a census or enumeration of the inhabitants and qualified
23 voters of the several counties and districts of the Territory to
24 be taken by such persons and in such a mode as the governor
25 shall designate and appoint, and the persons so appointed shall
26 receive a reasonable compensation therefor. And the first
27 election shall be held at such time and places, and be conducted
28 in such manner, both as to the persons who shall superintend such
29 election and the returns thereof, as the governor shall appoint
30 and direct ; and he shall, at the same time, declare the number
31 of members of the council and house of representatives to
32 which each of the counties or districts shall be entitled under
33 this act. The persons having the highest number of legal votes
34 in each of said council districts for members of the council
35 shall be declared by the governor to be duly elected to the
36 council ; and the persons having the highest number of legal
37 votes for the house of representatives shall be declared by the
38 governor to be duly elected members of said house : *Provided,*
39 That in case two or more persons voted for shall have an equal

40 number of votes, and in case a vacancy shall otherwise occur
41 in either branch of the legislative assembly, the governor shall
42 order a new election ; and the persons thus elected to the legis-
43 lative assembly shall meet at such place and on such day as the
44 governor shall appoint ; but thereafter the time, place, and
45 manner of holding and conducting all elections by the people,
46 and the apportioning the representation in the several counties
47 or districts to the council and house of representatives, accord-
48 ing to the number of qualified voters, shall be prescribed by
49 law, as well as the day of the commencement of the regular
50 sessions of the legislative assembly: *Provided*, That no session
51 in any one year shall exceed the term of forty days, except the
52 first session, which may continue sixty days.

1 *SEC. 5. And be it further enacted*, That every free white
2 male inhabitant above the age of twenty-one years, who shall
3 have been an actual resident of said Territory for at least
4 thirty days, shall be entitled to vote at the first election, and
5 shall be eligible to any office within the said Territory; but the
6 qualifications of voters, and of holding office, at all subsequent
7 elections, shall be such as shall be prescribed by the legislative
8 assembly: *Provided*, That no officer, soldier, seaman or ma-
9 rine, or other person in the army or navy of the United States,
10 or attached to troops in the service of the United States, shall
11 be allowed to vote or hold office in said Territory by reason of
12 being on service therein.

1 SEC. 6. *And be it further enacted,* That the legislative
2 power of the Territory shall extend to all rightful subjects of
3 legislation consistent with the Constitution of the United States
4 and the provisions of this act, but no law shall be passed inter-
5 fering with the primary disposal of the soil; no tax shall be
6 imposed upon the property of the United States, nor shall the
7 lands or other property of non-residents be taxed higher than
8 the lands or other property of residents. Every bill which shall
9 have passed the council and house of representatives of the
10 said Territory shall, before it becomes a law, be presented to
11 the governor of the Territory; if he approve, he shall sign
12 it; but if not, he shall return it, with his objections, to the
13 house in which it originated, who shall enter the objections at
14 large on their journal and proceed to reconsider it. If, after
15 such reconsideration, two-thirds of that house shall agree to
16 pass the bill, it shall be sent, together with the objections, to
17 the other house, by which it shall likewise be reconsidered;
18 and if approved by two-thirds of that house, it shall become
19 a law. But in all such cases the votes of both houses shall be
20 determined by yeas and nays, to be entered on the journal of
21 each house, respectively. If any bill shall not be returned by
22 the governor within three days (Sundays excepted) after it shall
23 have been presented to him, the same shall be a law in like
24 manner as if he had signed it, unless the assembly, by adjourn-
25 ment, prevent its return; in which case it shall not be a law:

26 *Provided*, That whereas slavery has no legal existence in said
27 Territory, nothing herein contained shall be construed to
28 authorize or permit its existence therein.

1 SEC. 7. *And be it further enacted*, That all township
2 district, and county officers, not herein otherwise provided for,
3 shall be appointed or elected, as the case may be, in such
4 manner as shall be provided by the governor and legislative
5 assembly of the Territory of Arizona. The governor shall
6 nominate and, by and with the advice and consent of the legis-
7 lative council, appoint all officers not herein otherwise pro-
8 vided for; and in the first instance the governor alone may
9 appoint all said officers, who shall hold their offices until the
10 end of the first session of the legislative assembly; and shall
11 lay off the necessary districts for members of the council and
12 house of representatives, and all other officers.

1 SEC. 8. *And be it further enacted*, That no member of
2 the legislative assembly shall hold or be appointed to any office
3 which shall have been created, or the salary or emoluments of
4 which shall have been increased, while he was a member,
5 during the term for which he was elected, and for one year
6 after the expiration of such term; but this restriction shall
7 not be applicable to members of the first legislative assembly;
8 and no person holding a commission or appointment under the
9 United States, except postmasters, shall be a member of the

10 legislative assembly, or shall hold any office under the govern-
11 ment of said Territory.

1 SEC. 9. *And be it further enacted*, That the judicial
2 power of said Territory shall be vested in a supreme court,
3 district courts, probate courts, and in justices of the peace.
4 The supreme court shall consist of a chief justice and two
5 associate justices, any two of whom shall constitute a quorum,
6 and who shall hold a term at the seat of government of said
7 Territory annually; and they shall hold their offices during
8 the period of four years, and until their successors shall be
9 appointed and qualified. The said Territory shall be divided
10 into three judicial districts, and a district court shall be held in
11 each of said districts by one of the justices of the supreme
12 court at such times and places as may be prescribed by law;
13 and the said judges shall, after their appointments, respectively,
14 reside in the districts which shall be assigned them. The
15 jurisdiction of the several courts herein provided for, both
16 appellate and original, and that of the probate courts and of
17 justices of the peace, shall be limited by law: *Provided*, That
18 justices of the peace shall not have jurisdiction of any mat-
19 ter in controversy when the title or boundaries of land may
20 be in dispute, or where the debt or sum claimed shall exceed
21 fifty dollars; and the said supreme and district courts,
22 respectively, shall possess chancery as well as common law
23 jurisdiction. Each district court, or the judge thereof, shall

24 appoint its clerk, who shall also be the register in chancery,
25 and shall keep his office at the place where the court may be
26 held. Writs of error, bills of exception, and appeals, shall be
27 allowed in all cases from the final decisions of said district
28 courts to the supreme court, under such regulations as may be
29 prescribed by law ; but in no case removed to the supreme
30 court shall trial by jury be allowed in said court. The supreme
31 court, or the justices thereof, shall appoint its own clerk, and
32 every clerk shall hold his office at the pleasure of the court for
33 which he shall have been appointed. Writs of error and ap-
34 peals from the final decisions of said supreme court shall be
35 allowed, and may be taken to the Supreme Court of the United
36 States, in the same manner and under the same regulations as
37 from the circuit courts of the United States, where the value
38 of the property or the amount in controversy, to be ascertained
39 by the oath or affirmation of either party, or other competent
40 witness, shall exceed one thousand dollars; except that a writ
41 of error or appeal shall be allowed to the Supreme Court of
42 the United States from the decision of the said supreme court
43 created by this act, or of any judge thereof, or of the district
44 courts created by this act, or of any judge thereof, upon any
45 writs of habeas corpus involving the question of personal free-
46 dom ; and each of the said district courts shall have and exer-
47 cise the same jurisdiction, in all cases arising under the Consti-
48 tution and laws of the United States, as is vested in the circuit

49 and district courts of the United States ; and the first six days of
 50 every term of said courts, or so much thereof as shall be neces-
 51 sary, shall be appropriated to the trial of causes arising under
 52 the said Constitution and laws, and writs of error and appeal
 53 in all such cases shall be made to the supreme court of said
 54 Territory, the same as in other cases. The said clerk shall
 55 receive, in all such cases, the same fees which the clerks of the
 56 district courts of New Mexico Territory now receive for similar
 57 services. The judge of each probate court shall appoint the
 58 clerk of the said court, who shall hold the said office during
 59 the pleasure of the said court, and shall receive such fees as
 60 shall be fixed by law.

1 SEC. 10. *And be it further enacted,* That there shall be
 2 appointed an attorney for said Territory, who shall continue
 3 in office four years, and until his successor shall be appointed
 4 and qualified, unless sooner removed by the President of the
 5 United States, and who shall receive the same fees and salary
 6 as the attorney of the United States for the present Territory
 7 of New Mexico. There shall also be a marshal for the Territory
 8 appointed, who shall hold his office for four years, and until
 9 his successor shall be appointed and qualified, unless sooner
 10 removed by the President of the United States, and who
 11 shall execute all processes issuing from the said courts when
 12 exercising their jurisdiction as circuit and district courts of
 13 the United States ; he shall perform the duties, be subject

14 to the same regulations and penalties, and be entitled to the
15 same fees as the marshal of the district court of the United
16 States for the present Territory of New Mexico, and shall, in
17 addition, be paid two hundred dollars annually as a compensa-
18 tion for extra services.

1 SEC. 11. *And be it further enacted*, That the governor,
2 secretary, chief justice, and associate justices, attorney, and
3 marshal, shall be nominated and, by and with the advice and
4 consent of the Senate, appointed by the President of the
5 United States. The governor and secretary to be appointed
6 as aforesaid shall, before they act as such, respectively
7 take an oath or affirmation before the district judge or
8 some justice of the peace in the limits of said Territory
9 duly authorized to administer oaths and affirmations by the
10 laws now in force therein, or before the chief justice
11 or some associate justice of the Supreme Court of the United
12 States, to support the Constitution of the United States, and
13 faithfully to discharge the duties of their respective offices,
14 which said oaths, when so taken, shall be certified by the per-
15 son by whom the same shall have been taken, and such cer-
16 tificates shall be received and recorded by the said secretary
17 among the executive proceedings; and the chief justice and
18 associate justices, and all other civil officers in said Territory,
19 before they act as such, shall take a like oath or affirmation
20 before the said governor or secretary, or some judge or justice

21 of the peace of the Territory, who may be duly commissioned
22 and qualified, which said oath or affirmation shall be certified,
23 and transmitted by the person taking the same to the secre-
24 tary, to be by him recorded as aforesaid; and afterwards the
25 like oath or affirmation shall be taken, certified, and recorded
26 in such manner and form as may be prescribed by law. The
27 governor shall receive an annual salary of two thousand dol-
28 lars; the chief justice and associate justices shall receive an
29 annual salary of two thousand dollars; the secretary shall
30 receive an annual salary of two thousand dollars; the said sala-
31 ries shall be paid quarter-yearly, from the dates of the
32 respective appointments, at the treasury of the United
33 States; but no payment shall be made until said officers
34 shall have entered upon the duties of their respective appoint-
35 ments. The members of the legislative assembly shall be
36 entitled to receive three dollars each per day during their
37 attendance at the sessions thereof, and three dollars each for
38 every twenty miles' travel in going to and returning from the
39 said sessions, estimated according to the nearest usually travelled
40 route; and an additional allowance of three dollars per day
41 shall be paid to the presiding officer of each house for each day
42 he shall so preside. And a chief clerk, one assistant clerk,
43 a sergeant-at-arms, and doorkeeper, may be chosen for each
44 house; and the chief clerk shall receive four dollars per day,
45 and the said other officers three dollars per day, during the

46 session of the legislative assembly ; but no other officers shall
47 be paid by the United States : *Provided*, That there shall be
48 but one session of the legislative assembly annually, unless, on
49 an extraordinary occasion, the governor shall think proper to
50 call the legislative assembly together There shall be appro-
51 priated annually the usual sum, to be expended by the gov-
52 ernor, to defray the contingent expenses of the Territory,
53 including the salary of the clerk of the executive department ;
54 and there shall also be appropriated annually a sufficient sum,
55 to be expended by the secretary of the Territory, and upon an
56 estimate to be made by the Secretary of the Treasury of the
57 United States, to defray the expenses of the legislative assem-
58 bly, the printing of the laws, and other incidental expenses ;
59 and the governor and secretary of the Territory shall, in the
60 disbursement of all moneys intrusted to them, be governed
61 solely by the instructions of the Secretary of the Treasury of
62 the United States, and shall semi-annually account to the said
63 Secretary for the manner in which the aforesaid moneys shall
64 have been expended ; and no expenditure shall be made by said
65 legislative assembly for objects not specially authorized by the
66 acts of Congress making the appropriations, nor beyond the
67 sums thus appropriated for such objects.

1 SEC. 12. *And be it further enacted*, That the legislative
2 assembly of the Territory of Arizona shall hold its first session
3 at such time and place in said Territory as the governor thereof

4 shall appoint and direct ; and at said first session, or as soon
5 thereafter as they shall deem expedient, the governor and legis-
6 lative assembly shall proceed to locate and establish the seat of
7 government for said Territory at such place as they may deem
8 eligible : *Provided*, That the seat of government fixed by the
9 governor and legislative assembly shall not be at any time
10 changed, except by an act of the said assembly duly passed,
11 and which shall be approved, after due notice, at the first
12 general election thereafter, by a majority of the legal votes cast
13 on that question.

1 **SEC. 13.** *And be it further enacted*, That a delegate to
2 the House of Representatives of the United States, to serve
3 for the term of two years, who shall be a citizen of the United
4 States, may be elected by the voters qualified to elect members
5 of the legislative assembly, who shall be entitled to the same
6 rights and privileges as are exercised and enjoyed by the dele-
7 gates from the several other Territories of the United States
8 to the said House of Representatives ; but the delegate first
9 elected shall hold his seat only during the term of the Congress
10 to which he shall be elected. The first election shall be held at
11 such time and places, and be conducted in such manner, as the
12 governor shall appoint and direct ; and at all subsequent elec-
13 tions the times, places, and manner of holding the elections
14 shall be prescribed by law. The person having the greatest
15 number of legal votes shall be declared by the governor to be

16 duly elected, and a certificate thereof shall be given accord-
17 ingly. That the Constitution and all laws of the United States
18 which are not locally inapplicable shall have the same force
19 and effect within the said Territory of Arizona as elsewhere
20 within the United States.

1 SEC. 14. *And be it further enacted*, That when the lands
2 in the said Territory shall be surveyed, under the direction of
3 the government of the United States, preparatory to bringing
4 the same into market, sections numbered sixteen and thirty-six
5 in each township in said Territory shall be, and the same are
6 hereby, reserved for the purpose of being applied to schools
7 in said Territory, and in the States and Territories hereafter
8 to be erected out of the same.

1 SEC. 15. *And be it further enacted*, That, until otherwise
2 provided by law, the governor of said Territory may define
3 the judicial districts of said Territory, and assign the judges
4 who may be appointed for said Territory to the several dis-
5 tricts, and also appoint the times and places for holding courts
6 in the several counties or subdivisions in each of said judicial
7 districts, by proclamation to be issued by him; but the legisla-
8 tive assembly, at their first or any subsequent session, may
9 organize, alter, or modify such judicial districts, and assign the
10 judges, and alter the times and places of holding the courts, as
11 to them shall seem proper and expedient.

1 SEC. 16. *And be it further enacted*, That all officers to

2 be appointed by the President of the United States, by and
 3 with the advice and consent of the Senate, for the Territory of
 4 Arizona, who, by virtue of the provisions of any law now
 5 existing, or which may be enacted during the present Con-
 6 gress, are required to give security for moneys that may be
 7 intrusted with them for disbursement, shall give such security
 8 at such time and place, and in such manner, as the Secretary of
 9 the Treasury may prescribe.

1 SEC. 17. *And be it further enacted*, That all treaties,
 2 laws, and other engagements made by the government of the
 3 United States with the Indian tribes inhabiting the Territory
 4 embraced within this act, shall be faithfully and rigidly observed,
 5 notwithstanding anything contained in this act; and that the
 6 existing agencies and superintendencies of said Indians be con-
 7 tinued with the same powers and duties which are now pre-
 8 scribed by law, except that the President of the United States
 9 may, at his discretion, change the location of the office of
 10 superintendent.

1 SEC. 18. *And be it further enacted*, That at any time
 2 after two years from the date of the organization of said Ter-
 3 ritory as herein provided, whenever the actual resident inhab-
 4 itants of said Territory shall amount to twenty-five thousand,
 5 to be ascertained by a census duly and legally taken, the ter-
 6 ritorial legislature thereof shall, and it is hereby made the duty
 7 of such legislature to, provide by law for the election by the

8 people of all territorial officers, hereinbefore by this act to be
9 appointed by the President, all of whom when elected, except
10 the governor, shall be commissioned by the governor of the
11 Territory, and the governor so elected shall be commissioned
12 by the President, and the terms of office of such officers and
13 the powers and duties of such governor shall be established and
14 fixed by the legislature of said Territory : *Provided*, that the
15 term of office of any officer herein provided to be elected by
16 the people shall not be changed during the term of office estab-
17 lished by law at the time of his election.

1 SEC. 19. *And be it further enacted*, That said territorial
2 legislature shall provide by law for the manner in which such
3 officers shall be qualified before entering upon the duties of
4 their respective offices ; and that when such officers shall be
5 duly qualified, they shall enter upon the discharge of the duties
6 of their offices respectively, and the term of office of the then
7 incumbents of said offices shall thereupon cease and expire.